

FILED
Clerk
District CourtProb 12D
(6/05)

FEB 16 2006

UNITED STATES DISTRICT COURT For The Northern Mariana Islands
By _____
(Deputy Clerk)

for

District of the Northern Mariana Islands

**Request for Summons and
Modification of the Conditions or Term of Supervision**Name of Offender: Libo Wang Case Number: 01-00010-005Name of Sentencing Judicial Officer: Alex R. MunsonDate of Original Sentence: August 14, 2002Original Offense: Conspiracy to Possess Methamphetamine with Intent to Distribute and Distribute
Methamphetamine, 21 U.S.C. §§ 841(a)(1) and 846

Original Sentence: 18 months imprisonment followed by a four year term of supervised release with conditions to include: obey all federal, state, and local laws; not possess a firearm or other dangerous weapon; not use or possess illegal controlled substances; refrain from any alcoholic beverages; submit to one urinalysis test within 15 days of release from custody and to two more urinalysis thereafter; be assessed for substance abuse or alcohol abuse. If it is determined that she is in need of treatment, she shall participate in a substance abuse program approved by the U.S. Probation Office for treatment of narcotic addiction or drug or alcohol dependency, which will include testing for the detection of substance abuse. The defendant shall also make a payment for treatment at a rate to be determined by the U.S. Probation Office; obtain and maintain gainful employment; and pay a fine of \$500.

Type of Supervision: Supervised Release Date Supervision Commenced: July 4, 2004

PETITIONING THE COURT

The offender, not having waived a hearing, the probation officer requests that a summons be issued and hearing held to modify the conditions of supervision as follows:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer.

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CAUSE

The probation officer believes that the action requested above is necessary for the following reasons:


On September 2, 2005, the Ninth Circuit, in United States v. Stephens, No. 04-50170, addressed 18 U.S.C. § 3583(d) supervised release and 18 U.S.C. § 3563(a)(5) probation mandatory testing conditions which requires that the district court determine the maximum number of mandatory drug tests. The Ninth Circuit held that because the statute requires the district court to determine the maximum number of drug tests under the mandatory condition, transferring this duty to the probation officer was an improper delegation of Article III judicial power.

To assist the Court in determining the appropriate number of drug tests, the undersigned officer has evaluated the Libo Wang's history of drug use, and the drug detection period of her drug of choice. As methamphetamine is considered one of the drugs of choice and has a normal detection period of four days or less, it is recommended that the maximum number of tests the court order per month be set at eight. This will allow for adequate time intervals between tests which will help facilitate the detection of use. It also provides for enough additional tests so that the pattern of testing will not be predictable to the offender.

To address the implications of United States v. Stephens Ninth Circuit No. 04-50170, it is respectfully requested that the Court modify Ms. Wang's mandatory condition to set the maximum number of tests the defendant must submit. It is therefore recommended that the mandatory condition be modified as follows:

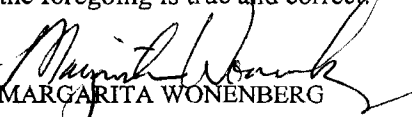
"The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer."

Reviewed by:


ROSSANNA VILLAGOMEZ-AGUON
U.S. Probation Officer
Supervision Unit Leader

Date: 2/15/06

I declare under penalty of perjury that
the foregoing is true and correct.


MARGARITA WONENBERG
U.S. Probation Officer

Executed on: 2/16/06

THE COURT ORDERS:

☐ No action.☒ The issuance of a summons.☐ Other: _____

for February 22, 2006 @ 9:00 a.m.


Signature of Judicial Officer

2-16-2006

Date